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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/067,161	02/04/2002	Dennis Robert Kliegle	24950A	4940
22889	7590	12/13/2004	EXAMINER	
OWENS CORNING 2790 COLUMBUS ROAD GRANVILLE, OH 43023			GREEN, CHRISTY MARIE	
			ART UNIT	PAPER NUMBER

3635

DATE MAILED: 12/13/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

10/067,161

**Applicant(s)**

KLIEGLE ET AL.

**Examiner**

Christy M Green

**Art Unit**

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 27 September 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1,2,4-12 and 37-41 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 10-12 is/are allowed.
- 6) ☒ Claim(s) 1,2,4-9 and 38-41 is/are rejected.
- 7) ☒ Claim(s) 37 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input checked="" type="checkbox"/> Other: <u>Exhibit A: attached figure (1)</u> .   |

### **DETAILED ACTION**

This is a fourth office action for serial number 10/067161, entitled Suspended Ceiling Panel Edge and Rib Technology, filed on February 4, 2002.

#### ***Response to Amendment***

In response to the examiner's office action dated May 19, 2004, the applicant has cancelled claim 3 and withdrawn claims 13-36 and amended claim 39.

#### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 2, 4 and 38-41 stand rejected under 35 U.S.C. 102(b) as being anticipated by Sparkes, US patent # 4,875,320.

In regards to claims 1, 2 and 4, Sparkes discloses the claimed invention a surface panel (19) with a major and minor dimension and a thickness dimension (see attached figures 1 and 3), a side edge of the panel (at 12) corresponding to the thickness dimension, a face surface (at 21) of the panel facing toward a room and substantially coplanar with a plane defined by the major and minor dimensions (figure 1), a back surface of the panel being opposite of the face surface (see attached figure 3), the panel edge is multifaceted and includes a first surface (at 12) intersecting the back surface (see attached figure 3), a second surface (see attached figure 3) intersecting the first surface and substantially parallel to the face surface, a third surface

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(see attached figure 3) intersecting the second surface and substantially orthogonal to the face surface and a fourth surface (see attached figure 3) intersecting and being beveled relative to the third surface (beveled relative to third surface – by definition: the angle that one surface or line makes with another when they are not at right angles); the **fourth surface (see attached figure 3) intersects the face surface surface**; and, the first surface (at 12) is substantially orthogonal to the back surface (see attached figure 3).

In regard to claims 38-41, Sparkes further discloses the fourth surface (see attached figure 3) is a continuous surface (by continuing into the face surface and the third surface); the third surface is relatively more outboard than the first surface (the third surface is more outboard to the face surface than the first surface); the first, second, third and fourth surfaces together present a generally convex conformation (convex in correlation to the panel, 19 and 20, itself); and, the fourth surface is substantially planar (see attached figure 3).

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 5 and 7-9 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Sparkes.

In regards to claim 5, Spakes discloses the claimed invention as stated above in claim 1; although Spakes disclose the surface panel is a ceiling panel (column 6, lines 5-6), he does not specifically disclose the function of the ceiling panel is for a suspended ceiling, however it could be interpreted that the ceiling panel (made up of 19, 20, 21 and 22) could be a suspended ceiling by the use of parts (15, 22 and 24). It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the ceiling panel as taught by Sparkes to be used for a suspended ceiling since it is interpreted that the panel is used in a roof support system with a ceiling and could be considered to be suspended by parts (15, 22 and 24). Also, the functional recitation that for a suspended ceiling has not been given much patentable weight because it is in narrative form. In order to be given patentable weight, a functional recitation must be expressed as a "means" for performing the specified function, as set forth in USC 112, 6<sup>th</sup> paragraph, and must be supported by recitation in the claim of sufficient structure to warrant the presence of the functional language.

In regards to claims 7-9, Sparkes discloses the claimed invention as stated above in claim 1, except for a height of the third surface is about half of the distance between the second surface and the face surface, the distance between the second surface and the face surface is 15/16 inch, a length of the third surface is about 15/32 inch, the bevel of the fourth side defines an imaginary triangle having a first side, a second side has a hypotenuse, the first side coplanar with the third surface about 15/32 inch, the second side having a length, L, in range of about 1/16 inch, L about 1/2 inch. It would have been an obvious matter of design choice to provide these dimensions, since

such a modification would have involved a mere change in the size of a component, and since the applicant has not disclosed that these dimensions are for a particular purpose and it seems that the invention performs equally well as taught by Sparkes. A change in size is generally recognized as being within the level of ordinary skill in the art. Also, it has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum or workable ranges involves only routine skill in the art.

Claim 6 stands rejected under 35 U.S.C. 103(a) as being unpatentable over Sparkes in view of Allen et al., US Patent # 6,176,054 and further in view of Shayman, US patent # 3,919,444.

Sparkes discloses the claimed invention as stated above in claim 1, except for the surface panel is a wall panel for an acoustical wall system. Allen teaches that it is known in the art to provide a wall system made of any suitable material including a ceiling tile panel. Shayman teaches that it is known in the art to provide an acoustical wall or panel made from the properties of a ceiling tile. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the wall panel made of any material and the wall panel with a ceiling tile panel in a system, made from the properties of a ceiling tile as taught by Allen and further in view of Shayman to the suspended ceiling panel of Sparkes in order to improve fire retardant properties of a structure (column 1, lines 64-68).

***Allowable Subject Matter***

Claim 37 stands objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 10-12 are allowed.

The following is a statement of reasons for the indication of allowable subject matter: within claim 10, prior art does not disclose the third surfaces abut against each other without intervening the framing material in combination with a fourth surface intersecting and being beveled relative to the third surface and all other surfaces of the multifaceted edges of each panel.

### ***Response to Arguments***

Applicant's arguments filed 9/27/04 have been fully considered but they are not persuasive.

In response to the applicants argument that Sparks does not disclose a third surface that is substantially orthogonal to the face surface, the examiner recognizes the argument, however, "substantially" is a broad term, also a surface which is "substantially orthogonal" fixed direction is to all intents and purposes disposed as clearly orthogonal to such as is humanly possible; "substantially" is differentiated from "approximately", and approximately cannot be read out of a patent, but must be read together with more specific terms. Also, the Merriam's Collegiate Webster's Dictionary, 10<sup>th</sup> edition, page 821 defines orthogonal as: 2. having perpendicular slopes or tangents at the point of intersection. By definition allowing for some variance in a perpendicular or right angle especially with the term substantially proceeding it, therefore, the examiner interprets

the surface as within the attached figure 3, to be substantially orthogonal to the face surface.

***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christy M Green whose telephone number is 703-308-9693. The examiner can normally be reached on M-F 8:00-4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Carl Friedman can be reached on 703-308-0839. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.



Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Cg

December 8, 2004



Carl D. Friedman  
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